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Some circulation statements, like boarding house hash, have some things in them put there through sheer nerve.-Rusty

STATES CANNOT MAKE RATES FOR RAILWAYS

Highest Court of the Land Affirms Decisions in Cases From North Carolina and Minnesota.

Strong Dissenting Opinion by Justice Harlan-Attorney General Young's Opinion of the Probable Effect.

Justice Harlan's dissenting opinion expressed the view that the decisions of the court in the Minnesota and North Carolina cases marked a new era in the relationships between the states and the federal government and between the federal and state courts. He contended that the suit of the railroad company in the Minnesota case was in reality a suit against the state and he dwelt at length upon the enormity of nermitting a subordinate United States court to order the imprisonment of an official of a sovereign state to test a law of that

"If this can be done," he said, "why can't a similar injunction be put on a grand jury or a district attorney in any criminal proceed-

to grant to Attorney General Young of held that a suit is not one against the Minnesota, a writ of habeas corpus re- state, although it prevents a state offi-Minnesota, a writ of habeas corpus re-leasing him from the penalty imposed forcement of a state enactment which by the United States district court for fixed rates so low as to be confiscatory the district of Minnesota on the charge and which act was therefore a violation of contempt of court in instituting a proceeding in a state court for enforcement of the railroad rate law after the federal court had prohibited such a course, and in affirming the decision of Judge Pritchard of the United States eigenit court for the western district of the Linted States and this principle is reiterated and again decided in these cases. "The jurisdiction of the federal course, and in affirming the decision of Judge Pritchard of the United States electronic activate the reference a violation of the constitution of the constitution of the constitution of the jurisdiction of the federal courts in such cases is only exercised where the state enactment is alleged to be a violation of the Constitution of the Linted States and in graph course, it is the constitution of the United States and this principle is reiterated and again decided in these cases. circuit court for the western district of the United States and in such cases it North Carolina, discharging from imprisonment James H. Wood, a ticket agent of the Southern Railway at agent of the Southern Railway at as the constitution of the United States Asheville, after he had been sentenced is by its own provisions the supreme by the Asheville police court to serve law of the land, anything in state cona term on the rock pile on the charge stitution or law to the contrary not-of collecting for a ticket on that road withstanding, and there is no usurpaa greater price than was permitted by the state railroad law, the supreme court of the United States today added another to the series of decisions which have rendered notable the present term courts, and the party had his choice

to fix rates for railroad tion was the issue, and both involved conflicts between the federal and the was opposed both to the state and to their courts. The opinion of the court person from proceeding in a state court in both cases was announced by Jus- until the federal court has proceeded tice Peckham, and with the exception to judgment. This is also a well-established right of a court of equity, and bers of the court stood behind him in no new ground is taken in this case. the announcement of the court's finding. Justice Harlan read a dissenting upon the penalty provisions of the rate opinion in the Young case, in which he laws, and the court's views on that took the view that the suit was prac- point were stated in the following extically a proceeding against the state, tract from the opinion: permissible under the

sult would be disastrous.

was made in the Minnesota case.

Opinion by Justice Peckham.

Justice Peckham's opinion was authoritatively outlined as follows: The court has decided: That by reason of the enormous penalties provided in the rate laws by way of fines of each ticket above the price permitted ment of their agents and employes, the companies are in effect prevented from ever questioning the validity of those laws, as the risk of confiscation of ble, for the company to obtain offiproperty and imprisonment of agents cers, agents or employes willing to defense was too much to undertake in to the act and orders in question. The order to obtain a judicial decision of the question of such validity.

Such laws are therefore held unconstitutional, as they prevented the companies from resorting to the courts. and therefore deprived them of equal protection of laws.

The question of sufficiency of the rates to enable the company to obtain be to preclude a resort to the courts.— Supreme Court Declines to some return to its stockholders for their investments has for many years of testing its validity. The officers and been held to be one for the courts to employes could not be expected to disconstitution of the United States to fix rates so low as to be confiscatory

Jurisdiction of Lower Courts.

The laws providing rates for transpertation of passengers and freight in been held by the courts below to be so tions upon the right to appeal for judifew as to be substantially confiscatory, cial relief as works an abandonment and should therefore not be enforced of the right, rather than face the condiuntil after further trials. The courts had jurisdiction to make such an order

Washington, March 23.-In refusing "It has also for many years been

tion of jurisdiction in such event.

of forum without any invidious dis Harlan Alone Dissented. tinction against the state courts and in favor of the federal courts because of his choice of the latter.

When a federal court has taken jurisdiction of a case before any pro ceeding in a state court has been comstates courts. The decision in each case menced the former court has authority to decide the case and to enjoin any The opinion turned almost entirely

"For disobedience of the freight act eleventh amendment to the constitu- the officers, directors, agents and em-He therefore characterized the ployes of the company are made guilty opinion as era making in the history of of misdemeanor, and upon conviction the court, said it had the effect of clos- each may be punished by imprisonment courts of a state against the in the county jail for a period not exstate itself, and predicted that the re- ceeding ninety days. Each violation would be a separate offense and there-The two cases were so similar that for might result in imprisonment for both practically were decided in one the various agents of the company who The principal pronouncement would dare disobey for a term of ninety days each for each offense. Disobedience to the passenger rate act renders the party guilty of a felony and subject to a fine not exceding \$5,000 or imprisonment in the state prison for a period not exceeding five years, or both fine and imprisonment. The sale

by the act would be a violation thereof. Would Preclude Resort to Courts.

"It would be difficult, if not impossicase the companies failed in their carry on its affairs except in obedience company itself would also, in case of disobecience, be liable to immense fines provided for in violation of orders of the company. The company in order to test the validity of the acts must find some agent or employe to disobey them at the risk stated. The necessary efobey any of the provisions of the acts or orders at the risk of such fines and penalties being imposed upon them, in case the court should decide that the law was valid. The result would be a denial of any hearing to the company. "A law which indirectly accomplishes

two cases under consideration have a like result by imposing such condi-

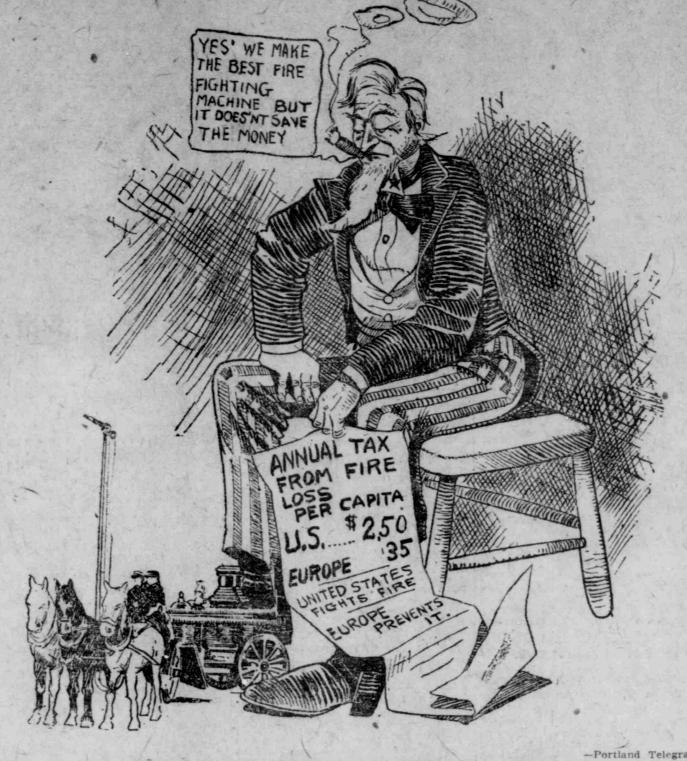
Continued on Page 2.

THOMAS F. WALSH SUPPORTS PLAN TO GIVE MINING INDUSTRY HELPING HAND

(Special to The Herald.) the house committee on mines and min- and its bureaus and divisions.

pecially the precious metals. The same Washington, March 23.-Thomas F. aid should be extended mining as the government extends to agriculture by Walsh appeared by invitation before means of the department of agriculture

ing today in support of a bill propos-ing to establish a bureau of mines. Mr. large number of minerals found in va-Walsh called attention to the fact that rious parts of the country, the value the government had never given the of which is little known on account of mining industry a helping hand, al- lack of facilities for examination, test- roads are the private property of their Winslow in his last bulletin for the though the annual mineral production ing and reporting upon their values. of Colorado alone is approximately \$50,- Through the agency of a government 000,000, and in the next twenty years bureau untold wealth might be speedily will produce a billion dollars from min- added to the country through a determination of the values of many min- and efficient service and equality be-He contended that the time has come erals now unworked through lack of tween shippers and communities, yet in further bulletins tonight unless some when there should be a government knowledge of their properties or val- no proper sense is the public a general mining bureau and that the govern- ues. He mentioned tungsten, molybdement should employ the ablest metal- num, uranium and radium as among lurgists and mining engineers and give the ores found in Colorado and Utah, a single transportation or for success them proper equipment and appliances which could be exploited and made to ive transportations, subject though it for determination and research in dis-covery of the best methods of treating ing proper methods of concentration, manner provided in the interstate gres and mining them economically, es- analysis and treatment.



-Portland Telegram.

Fire Fighting vs. Prevention.

Railroads Have Choice of Courts. WAYOR WILLELLAN AND COMMISSIONER SILTER C.

New York City Officials Accused by Rev. Parkhurst of Permitting Violations of the Liquor Tax Law.

'Albany, N. Y., March 23.-Mayor | tion to shirk my share of the responsi-McClellan and Police Commissioner bility." Bingham, of New York, today filed with Governor Hughes their answers tion of misconduct, or inefficiency, or to the charges recently filed against neglect or violation of oath of office.' them by the Rev. Dr. Charles H. Parkhurst, as president of the Society are no saloons at some of the places for the Prevention of Crime, of New specified in the charges. York City. Both officials entered a denial of the charges, which allege that they permitted flagrant violations of

the liquor tax law, Mayor McClellan said that, "as Commissioner Bingham's commanding officer, I am responsible for all his ac-

is his is equally mine. Not Disposed to Dodge. Should the governor think that the mand.

commissioner has done his duty the mayor asks him to dismiss the charges against both, and adds:

failure, then I shall have no disposi- with him in his life."

Uphold Contention

of Chicago.

the interstate commerce commission vs

the Chicago Great Western Railway

and involving the right of the company

to reduce the freight rate on livestock

products without making a similar re-

duction in the rate on livestock itself,

was decided by the supreme court of

the interest of the city of Chicago, it

being alleged that the change had

cago by diverting shipments of live

the change of the rate on one article

Opinion by Justice Brewer.

In the course of his opinion Justice

"It must be remembered that rail-

character of the work in which the

are engaged the public has the power

to prescribe rules for securing faithful

manager. It follows that railroad com-

panies may contract with shippers for

Brewer laid down the following general

fused to uphold that view.

proposition:

commerce act."

the United States today in favor of the

mpany, known as the meat rate case

tions of commission or omission in so proved the system of administration, far as I may be charged with knowl- has by the help of earnest citizens inedge of his actions. Any blame that jected discipline into a large police

Commissioner Bingham "that he has given New York City a faithful and energetic service, free from political machinations, has averreorganized and greatly force which greatly needed it; and has enforced every law as far as possible, with the limited means at his com-

Vigorous Defense.

Commissioner Bingham, in his

Commissioner Bingham claims that the president of the Society for the Prevention of Crime has from time to "Should you, on the other hand, be- time since Jan. 1, 1906, been abusive lieve that he has failed to o his duty and vituperative of the commissioner, and that I have had knowledge of that who he says "has never seen or spoken who he says "has never seen or spoken

WATER TURNED INTO CANAL

MEAT RATE CASE First Division of Twin Falls North Side Project Completed-Great Crowd Present. (Special to The rierald.)

Twin Falls, Idaho, March 23.-Water was turned into the first division of the great canal of the Twin Falls North Side Land & Water company today. irrigate 30,000 acres of land and, when completed, the canal will cover 180,000 Washington, March 23.-The case of acres of land on the north side of the a Snake river. The land has been taken

up under the Carey act. Seven hundred people were carried by two Oregon Short Line excursion trains from Cassia and Twin Falls tor William James Bryan of Florida. counties to be present at the opening of the canal. The ceremonies were also attended by Governor Gooding and other state officials. W. S. Kuhn, presicompany. The suit was instituted in dent of the Pittsburg (Pa.) Bank of Savings, is head of the canal company, and also was present today.

worked incalculable hardship to Chistock from that city to St. Paul and Missouri river points. The interstate commerce commission found that

without a corresponding change on the other was unlawful, but the courts refor Recovery of Massachusetts Governor.

Boston, March 23 .- From noon until late tonight there was no perceptible change in the condition of Governor Guild. At 10:15 p. m. Dr. Frederick B. owners; that while from the public night said;

"Governor Guild's condition remains unchanged. He is holding his own and resting comfortably. It was said that there would be no change occurred in the governor's con-

The friends of the governor and the state officials, with few exceptions, have abandoned hope for his recovery. afternoon and evening.

Legislation Being Thought Good Redounds to Glory of Mr. Mann.

Washington, March 23.-A scene somewhat out of the ordinary was en- improvements committee. acted in the house of representatives swer, denies "each and every allegatoday because of a charge made by Mr. Mann (Illinois) that Mr. Sulzer (New He incidentally asserts that there York) had put in the Congressional Record what purported to be a speech delivered by him last Saturday, but which Mr. Mann charged was not the one delivered. It all had to do with declares Mr. Sulzer's claim that he, and not Mr. Mann, was the author of the legislation which brought the department of commerce and labor into being. A resolution offered by Mr. Mann to ex- referred to the finance committee. The At 3:15 o'clock Warden Pratt was inpunge the printed speech from the record was adopted by a strict party vote, but not until after the house had been treated to a bitter denunciation of Mr Mann by Mr. Sulzer and several lively

Sulzer's Opinion of Mann.

Mr. Sulzer characterized Mr. Mann as a "pettifoggy lawyer, mean and con- Strange & Maguire. temptible," for which he was called to tion that such language could not be used toward a member. Twice afterwards in seeking to justify his claim of authorship he was interrupted by the speaker with a similar warning. Anticipating that his speech would be ruled out, and with the view of geiting dered a year ago, and he said that the Evans rose in reply and said: it back into the record, Mr. Sulzer resorted to a piece of strategy by trying to have the speech read and later endeavoring to read it himself, but the speaker insisted that he could only address himself to the resolution to expunge.

Smarting under the action of the Re publicans, Mr. Sulzer for the rest of the day posed as an obstructionist. He The part of the system completed will objected to all unanimous consent propositions and halted the proceedings of the house for a considerable time by point of no quorum.

After passing a number of measures relating to the District of Columbia. the house at 4:01 p. m adjourned out of respect to the memory of the late Sena-

HEADED FOR RENO.

Bandits Who Held Up Edward Hoffman Escaped on Handcar.

Reno, Nev., March 23.-The three bandits who held up Edward Hoffman and secured \$47,000 belonging to the Coalition Mining company yesterday made their way to Schurz during the night, stole a hand car and made their way into the Walker Indian reserva-State House Officials Abandon Hope tion. They are now being pursued by former members of the Walker Indian police and are headed for Buckbrush Springs, the only place in the mountains where water can be secured. Their course indicates they are trying to reach Reno.

> Sergeant Lundy of the Nevada state police stated this afternoon that his men under him are on guard. The belief is expressed that the robbers will be captured within forty-eight hours.

TWO SALT LAKE MEN VISIT WASHINGTON

(Special to The Herald.) Washington, D. C., March 23.—W. D. minister of foreign affairs at Pekin be made. Livingston and James A. Melville, of substantially in the following words: Information The patient suffered much pain jast Salt Lake City, are here in connection

Ordinances Offered Require Jurors Reach First Degree Midnight Closing and Prohibit All Private Rooms.

WILL AFFECT SALOONS AND LEADING CAFES

IS REDUCED FROM \$80 TO \$50 A YEAR.

the liquor traffic were introduced in the council last evening.

One provides for the closing of all & guilty of murder in the first desaloons at midnight and for keeping them closed until 6 o'clock in the morn-them clock in the morn-them clock in the morn-them ing. Councilman Martin fathered this & state prison for life. ordinance.

The other two stipulate that no saloon or restaurant license shall be wine room, card room, lunch room, curtains or screens of any kind. If this is passed it will mean the abolleading cafes, as well as those in the restaurants and saloons whose notoriety caused the introduction of the ordinances. Councilman J. J. Stewart is responsible for these meas-

All three ordinances were read in full and referred to the municipal laws committee.

There will no doubt be considerable opposition to these measures, especially from the reputable restaurants and saloons, and a lively session of the committee is expected next Thursday even-ing when the matter comes up.

Object to Garbage Smoke.

A number of residents living near the garbage crematory in the north end of the city protested against/the burning of garbage on a vacant lot near that institution. This is done because the garbage men are generally too indifferent to go to the trouble of using the crematory. The petitioners say that they do not like to "breathe the smoke from the burning refuse of the The sanitary committee ook into the matter.

Citizens of Superior addition, the home of Councilman Fernstrom, want to know why they have not been favored with the five arc lamps order d in by the council some time ago. "You have also graded our Main street," says Convicted of murder in the first dethe petition, "and since that time it has been much worse than ever before.' This rather caustic criticism of Street Supervisor Raleigh's ability went to the

The recorder announced that sufficient protests had not been received to defeat sewer extension No. 185 and the council ordered him to advertise for bids for the work. The job will cest about \$55,000 and comprises all uncompleted work in the district bounded by Main and Tenth East and Fifth and of apparently futile deliberation, Suili-Ninth South streets.

Sewer Bond Fund Dry.

Kennedy on the intercepting sewer was able to agree. than exhausted. The only reason for to the prison for the accused man.

order by the speaker with the admoni- Light & Railway company from car- rors. It was plain that they felt that rying baggage and express was intro- their long task was nearing an end. duced by Fernstrom and referred to the municipal laws committee

The engineer reported that this same poles from Second South street, as orcompany had not even ordered its side street poles. This went to the engineering committee.

produce peddlers from \$80 to \$50 a year fully. was passed unanimously.

FEWER WORKING HOURS.

Pittsfield, Mass., March 23.-A reduccontinue to work on full time, while ed upon the slip of paper. in certain departments the men will work but three and a half days a week that trying moment, but the pallor o

Murder Verdict, but Recommend Mercy.

TAKE 48 HOURS TO REACH AGREEMENT

LICENSE OF PRODUCE PEDDLERS DENNY, WHO HELD OUT LONG-EST, DECLARES HE WAS NOT INTIMIDATED.

 State of Utah vs. Joseph Sulli-van.—We, the jury impaneled in * the above case, find the defendant \$ H. H. EVANS, Foreman.

Unexpectedly reaching an agreement granted if the place has within it or yesterday afternoon, the jury in the in any manner connected with it any case of Joe Sullivan, the highwayman who murdered Policeman Charles S. booth or other enclosure or place, Ford filed into Judge Armstrong's roofed or open, with or without doors, court at 4:17 o'clock and, through Forman Hyrum H. Evans, handed in a verdict of murder in the first degree, ishment of the private rooms in the with a recommendation that Sullivan



JOSEPH SULLIVAN gree in connection with the killing

be sentenced to imprisonment at hard labor for life in the state penitentiary.

The agreement of the jury was a great surprise, as it was the general opinion that the jurors would be un-

able to come to an understanding. When the jury announced that it was ready to report, after forty-eight hours van was out at the state penitentiary. He had not been brought to the city and county building owing to the im-The final estimate in favor of James pression that the jury would not be

amount is \$24,899.76, and when it is formed that Sheriff Emery and Depupaid the sewer bond fund will be more ty Sheriff Sharp were on their way out holding up the payment is that the fi- 3:45 o'clock Sullivan, guarded by the nance committee has grown to such an sheriff and his deputy, started from tilts between the latter and the all important body that nothing that the penitentiary for the city and county contemplates the expenditure of money building and reached Judge Armcan be passed without reference to it. strong's court at 4:15 o'clock. As soon The contracts for sewer extensions as he took his seat the jury, which Nos. 132 and 170 were awarded to had been awaiting his arrival, filed into court. There was an expression of An ordinance prohibiting the Utah relief in the faces of many of the ju-

Fateful Slip of Paper.

When the jurors were all seated company had not removed its wooden Judge Armstrong asked if a verdict had been agreed upon. Foreman Hyrum H. "If it please the court, we have."

Judge Armstrong instructed Bailift Butler to take the verdict. It was then The ordinance reducing the license to handed to the judge, who read it care-There was an intense silence in the

court room while Judge Armstrong's eyes were upon the document in his hands. The little slip of paper conion in working hours went into effect tained the written words which told the today in the two largest manufacturing fate of the desperade, and every man in plants in this city. At the plant of the court room watched the judge inthe Stanley General Incandescent Elec- tently, as though striving to guess the tric company, employing 1,900 men, tenor of the lines he was reading. Like per cent of the employes will the others. Sullivan kept his eyes rivet-

He coaxed a smile to his face during and in other departments four and a his cheeks and the feverish gleam of his eyes told their own story. The At the mills of the Eaton, Crane & smile upon his lips could be held there, Pike Paper company, the 1,100 opera-tives went on a schedule of thirty-nine

Continued on Page 2.

CHINESE EXPECT THE FLEET TO VISIT THEIR SHORES AS A MATTER OF COURSE

Washington, March 23. - China, to make suitable preparations, in conrepresentative in Washington, has ex- to Chinese shores. tended a cordial invitation for the It is hoped at the legation that a American battleship fleet to stop in favorable reply will be made by this China on its way around the world.

minister of foreign affairs for China the officers and men of the fleet where today, indicating that instructions have ever the ships may stop. been given to welcome the vessels, Mr. Wu promptly sent a letter to Secre- sequence in the viceroyalty of Nanking, tary Root. The latter was absent from so evidently it is the expectation of the the department today, and the commu- Chinese home authorities that the fleri nication will be laid before him tomer- will stop there in the event that the Wu based his invitation came from the than those already announced should

structions to the viceroy at Nanking way by mail,

through Minister Wu, its diplomatic junction with Admiral Sah, the ranking officer of the navy, to welcome the fleet

government to the invitation, and the On receipt of a dispatch from the officials at the legation are confident that a hearty reception will be given to

Shanghai is the only port of any con-The cablegram upon which Mr. government feels that any more stops

Information has reached the navy de-

"As the American fleet is to visit the partment that New Zealand and Tasnight, but was quite comfortable this with a proposed irrigation project at far east, we have given telegraphe in- mania have similar invitations on the